

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 00-0188 AGI
ADJUSTED GROSS INCOME TAX
FOR TAX PERIODS: 1995-1996

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Issues

Adjusted Gross Income Tax: Imposition

Authority: IC 6-3-2-1, 26 U.S.C.A. Sec. 61 (a), Thomas v. Indiana Department of Revenue, 675 N.E.2d 362 (Ind. Tax 1997), Snyder v. Indiana Department of Revenue, 723 N.E.2d 487 (Ind. Tax 2000).

Taxpayer protests the imposition of the adjusted gross income tax.

Statement of Facts

Taxpayer filed his 1996 adjusted gross income tax return. Taxpayer later filed an amended return stating that he had no taxable income in 1995 and 1996. No refund was paid as a result of the filing of the amended returns, but a determination was made that Taxpayer owed additional tax for 1996. Taxpayer protested. A hearing was scheduled for May, 15, 2000. On May 5, 2000, Taxpayer telephoned the hearing officer and confirmed the hearing date and time. Taxpayer did not appear either in person or by telephone.

Adjusted Gross Income Tax: Imposition

Discussion

An adjusted gross income tax is imposed upon all Indiana residents. IC 6-3-2-1. Taxpayer argues that he has no Indiana Adjusted Gross Income for 1995 or 1996 and therefore does not owe any tax. Taxpayer notes that the Indiana Code borrows some of its definitions from the Internal Revenue Code. For instance, "gross income" is defined at IC 6-3-1-8 as having the meaning as defined by section 61(a) of the Internal Revenue Code." Section 61 (a) which states in part:

Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items. . .

Taxpayer contends that since the word "wages" is not listed in Section 61, wages are not taxable income. Therefore he amended his federal returns to enter "zero" on the line titled "Wages, Tips, other Compensation." He then entered his federal adjusted gross income of "zero" on his Indiana amended returns. Following this erroneous logic, Taxpayer protested the failure of the Indiana Department of Revenue to refund withholding taxes held by the state for 1995 and 1996 and the assessment of additional tax for 1996.

The Indiana Tax Court has disposed with arguments that wages do not constitute income. In Thomas v. Indiana Department of Revenue, 675 N.E.2d 362 (Ind. Tax 1997), the Tax Court stated:

[e]ven assuming the validity of Thomas's legal framework, monetary payments made in exchange for labor are clearly severed from labor and received or drawn by the recipient for his separate use, benefit, or disposal.

In Snyder v. Indiana Department of Revenue, 723 N.E.2d 487 (Ind. Tax 2000), the Court specifically states at page 491 that "wages are income for purposes of Indiana's adjusted gross income tax." Taxpayer's income is subject to the Indiana Adjusted Gross Income Tax.

Finding

Taxpayer's protest is denied.